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ABSTRACT

Circumstances surrounding the issue of local school district superintendent appointment, as opposed to election, are discussed in this report. Also examined are the efforts in six southeastern states--Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee--to create systems in which all district superintendents are appointed. Data were collected through interviews with legislative staff members, liaisons for the departments of education, and members of the educational interest community in each of the six states to gather information about educational governance structures, legislation, and political dynamics. Proponents of superintendent election assert that the process maintains public control of schools, is more responsive to citizens' needs, and decreases high turnover and abuses of power. Those in favor of appointment point to the school board's personnel selection qualifications, the efficiency of the decision-making process, the creation of a professional rather than political superintendency, and the clear delineation of accountability. Empirical evidence for both cases is inconclusive. However, the historical context of the South and its traditional distrust of outside control present a formidable challenge to eliminating the electorate from the superintendent selection process. Appendices provide Tennessee and Florida Senate legislation and statutes. (31 references) (LMI)

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# Electing Versus Appointing District Superintendents of Schools

*by*
*Jill Schuh*
*and*
*Carolyn Herrington*

**November 1990**

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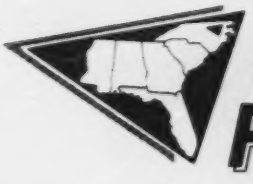

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## INTRODUCTION

Nationally, 97.8 percent of all school superintendents are appointed by the local school board. Approximately 320 district superintendents are currently elected in the United States. All are from six southern states, five of which are in the region served by the Southeast Lab. Forty-five of Florida's 67 school superintendents are elected, and 81 of 140 superintendents in Tennessee are also elected. Four other states continue to support a mixed system of local school governance: Alabama, Georgia, Mississippi, and South Carolina, and Tennessee. Although the ways the school systems are structured in each of these six states are unique, similar legislative efforts have been undertaken in each state that would require all school superintendents to be appointed by local school boards.

Within the literature, it is argued that the focus of this debate should be on the merits of the systems of appointing versus electing school superintendents, but it is also argued that the debate should center on the issues of local control and accountability in the school system. Dye (1985) frames this conflict as "democratization" versus "professionalism." He contends that schools, as public institutions, should be governed by the local citizenry, but as school issues become more complex, the professional superintendent has greater authority and influence in local school policymaking and implementation.

Superintendents have dual roles, according to Wirt & Kirst (1989). The first role is the provision of professional leadership and advice to the

school board, and the second entails managing both the human and material resources of the school district. However, Johns & Morphet (1983) argue that the main function of the local school superintendent and his/her staff should be the, "encouragement and facilitation of constructive citizen participation in school administration" (p. 354). Although, theoretically, the superintendent's job is to implement the policies designed by the school board, in real life they have assumed a much large role in the policy-making process of local school districts (Dye, 1985). Whatever role a superintendent "plays" in a local school system, school board members and superintendents are engaged in political activity whether they are elected or appointed (Eliot, 1959).

According to Eliot (1959), many educators and administrators at that time strongly believed that the operation of the schools should be left to the competent management of the professionals, the electorate being a "necessary evil" whose usefulness and expertise begins and ends with the provision of money. This sentiment is echoed more recently by Kimbrough, Alexander & Wattenbarger (1982), who state that across the United States a majority of educators believe local education governance structures should be composed of an elected board of education empowered to appoint the district superintendent of schools.

However, even though many educators and administrators disagree, school board members and interested citizens generally believe that control of education by the local citizenry/electorate is a vital component of democracy (Dye, 1985). According to a study of local participation in school board

elections (Milton, 1984), participation in local elections has as high a voter turnout as for U.S. Senate elections, much higher than previously reported. Further, they found that national reforms in local school board elections, both structurally and politically, have entrenched the perception that public education is better handled by professionals than by politicians. According to the findings of Milton's study, citizens in local school districts continue to demonstrate their desire for local control and electoral power over the administrators who run their school systems.

Literature is lacking on the educational qualifications of elected versus appointed local school superintendents. However, one of the authors conducted an informal assessment of the qualifications of local superintendents in Florida (Schuh, 1990). According to John Gaines, former executive director of the Florida Association of School Administrators, all of Florida's local school superintendents have at least a master's degree. Of the 22 appointed superintendents, 12 had doctorates (either a Ph.D. or an Ed.D.), but only 4 of the 45 elected superintendents had doctorates.

The issue described here is a multidimensional policy dilemma that involves many players and no clear solution. The debate surrounding the mandated appointment of district superintendents embodies the struggle for power over the schools among interested citizens and interest groups, elected school board members, and professional educators. The two sides of this issue are exemplified by the following positions:

Education specialist, C. A. Bowers asserts:

> When a school's moral responsibility to the student is not sacrificed to political expediency, education can become a humanizing process. . . as long as the "conventional wisdom" legitimizes control of the schools through political strife. . . is it possible to define the purpose of education in terms that elevate and enhance the well-being of the individual and not in terms of the self-proclaimed need of contending interest groups? (Dye, 1985, pp. 423-424)

Political scientists, Zeigler and Jennings concluded:

> In spite of the obvious perils, political decisions are--as long as we remain committed to democracy--logically superior to technical decisions. (Dye, 1985, pp. 422-423).

The discussion that follows is a study of the circumstances surrounding the issue of appointing, as opposed to electing, the local district superintendent of schools. This study also examines the efforts in six southeastern states to create systems in which all district superintendents are appointed. Although each state's educational structure and recent reform efforts are described, Florida's case is examined in more detail. As part of this study, legislative staff members from several states and the legislative liaisons for the departments of education in each of the six states were interviewed. Other interviewees included members of the education interest group community. The purpose of these interviews was twofold: (1) to gather information about the education governance structures in various states and information about legislation and (2) to understand the political dynamics of this issue. These interviews were informal; therefore, the same questions were not asked of all interviewees. Each of the interviewees is cited in the reference list.

## EFFORTS TO CHANGE

Within the southern states still supporting an elective system of superintendent selection, Alabama, Florida, Mississippi, and Tennessee all have seen the introduction of bills that would mandate, on a statewide basis, the appointment of district superintendents of schools. (The cases of South Carolina and Georgia are not entirely representative of the local conflict explored in this study, because the reforms proposed in these two states have been aimed at the office of state superintendent of schools.) Even though these states are southern and mainly rural, each utilizes different legal structures governing the administration of its schools. In Florida, the change from a mixed elected-appointed system to an entirely appointed system of superintendent selection requires majority approval of a constitutional amendment at a general statewide election. However, in Tennessee, Mississippi, South Carolina, Alabama and Georgia, all that is needed is a statutory revision. Approval of a constitutional amendment is very difficult to achieve, but even in those states requiring only a general bill, legislative support for this initiative has only been visible in Tennessee.

ALABAMA

**Structure**

The membership of the state board of education in Alabama consists of the Governor and eight representatives elected in each of the eight state board of education districts. These districts divide the 130 local districts into eight large "regions." The state superintendent of schools is appointed by the state board of education.

There are two types of local school districts, 67 county districts and 63 city districts. In county districts, the school board members are elected. In the city districts, 60 boards are appointed by the city governing body, and 3 boards are elected.

All 63 city superintendents are appointed by the local school board as required by state statute (Code of Alabama 1975, Section 16-21-1). All county boards of education are required to appoint a local superintendent of education, but counties are allowed an option to elect a county superintendent of education if they adhere to certain provisions in the law (Code of Alabama 1975, Sections 16-9-1, 16-9-5, 16-9-6, and 16-9-7). Under these provisions, 39 of the 67 county superintendents are elected. Thus, overall, 91 of Alabama's 130 local superintendents are appointed. Any change in the method of selecting district superintendents statewide would require a general law.

A related trend in Alabama is the recent shift from at-large district voting in local school elections to single-member district voting. Similar to events in Mississippi, this shift is the result of a number of lawsuits filed

against the state alleging discriminatory practices. To date, this has not had any implications for the method of selecting local school superintendents.

**Efforts to Change**

Although legislation requiring all superintendents to be appointed has been filed each year since 1984 in the Alabama state legislature, it has not received serious support from any educational organization, and each attempt has failed. According to the department of education's legislative liaison, this issue is not considered to be very pressing for Alabama, and the current system is not expected to change in the near future.

Unlike the other states studied, very few of Alabama's education-related interest groups are pushing for a change in the state's local school governance system. The main argument on this issue revolves around the fact that some of Alabama's local school boards are appointed, and, it is argued, allowing an appointed board to appoint the superintendent would be unacceptable to many voters. City governments, which currently appoint the school board members in 60 of the 63 city-wide school districts, and the Alabama School Boards Association take exception to this argument and do not support this position. There has been local legislation introduced that calls for the election, rather than appointment, of city school boards of education --with some of these bills requiring a referendum to determine the selection method. However, this local legislation has not been successful.

FLORIDA

**Structure and History**

Prior to 1849, there was no structured, statewide school system in Florida. The local land officer of each county was authorized by the state to lease school lands and apply the revenues collected to the establishment and maintenance of "common" schools (Cochran, 1922). The county tax assessor, charged with the responsibility of conducting a census of orphans, accounted for the number of students in the county, and the county probate judge oversaw the supervision and expenditure of school funds (Cochran, 1922). These experiments in administration cleared the way for the establishment of a modern, statewide school system in Florida.

In 1849, a law was enacted in Florida that provided a state system of public education open to all white children between the ages of 5 and 18. Under this law, the register of the land office also became the state superintendent of schools, and the county probate judge also became the county superintendent of schools (Cochran, 1922). The constitution of 1885 created a formal education system for the state of Florida. The constitution was designed during the Reconstruction period and is marked by the constant struggle between the conservatives and the "carpetbaggers" in the legislature (Mould, 1975).

After 1885, the district office of school superintendent became elected. This was intended to prevent abuses that resulted from the previous system of patronage utilized during the "carpetbag" regime governing Florida during reconstruction. (However, many Reconstruction efforts in Florida were not

tainted by the profiteering and corrupt political practices of the carpetbaggers and scalawags in power. The Republican leadership and the Freedmen's Bureau in the 1860s facilitated the establishment and administration of truly public schools, indigent medical care, and social services for black and whites alike [Tebeau, 1980].) An 1869 school law also created the office of county superintendent of schools (also appointed by the governor), thereby separating the office from that of the county judge of probate (Florida Department of Education, 1972). These changes were viewed as an improvement of the organization and administration of schools because they resulted in schools being less frequently subordinated to politics (Mould, 1975).

The governance structure of Florida's education system is unlike that of any other state. Consistent with national governance patterns, Florida's educational administration structure is decentralized, but it is also marked by the dominance of its state legislature (Kimbrough, Alexander, & Wattenbarger, 1982). The legislature, historically controlled by rural interests until 1967 when the state supreme court ordered reapportionment (Committee on Reapportionment, in press), acts as the primary policymaker for the entire educational system. This body sets the state standards, minimum requirements, goals, restrictions, and funding levels for Florida's school system.

The state board of education acts as a rule-making and policy-implementation body for the state. The ex officio board of education consists

of the six independently elected members of the executive cabinet and the Governor of Florida, who serves as the board's chairperson.

> The cabinet sits as ten different boards with ten different agendas, and the cabinet members responsible for specific board functions prepare the agenda for that board. . . . Each member is given a great deal of autonomy in the governmental area he or she administers. Consequently, educational items in the agenda are heavily influenced by the Commissioner of Education" (Kimbrough, Alexander & Wattenbarger, 1982, p. 433)

As a voting member of the state board of education and the chief administrator of the Florida Department of Education, the commissioner of education wields considerable influence in state education issues.

Florida's 67 counties, signified as the administrative units of the school system since 1869, are contiguous with the state's school districts. Each school district has a school board, the members of which are selected in nonpartisan elections. According to the Florida Constitution, Article IX, Section 4A, the responsibilities of the local school boards include the, "control and supervision of all free public schools within the school district and determination of the rate of school district taxes."

The "chief executive officer" of each school district, the superintendent of schools, oversees the administration of the entire school system and its employees. The duties and responsibilities of the district superintendent are specified by statute and State Board of Education rules. Section 230.32, of the Florida Statutes, General Purposes of the Superintendent, and Section 230.33, Florida Statutes, Duties and Responsibilities of the Superintendent, describe the areas in which the

superintendent advises the school board in the operation, maintenance, and administration of the district school system (see Appendix A).

**Current Practice**

From 1885 to 1957, all district school superintendents were elected in Florida. But, in 1955, a constitutional amendment was adopted that allowed Duval, Sarasota, Dade, and Pinellas Counties to decide by a majority vote of the qualified electors of a county, or by special act of the legislature, if the district school superintendent would remain elected or become an appointive office (Article XI, Section 2A). In 1962, another amendment was adopted authorizing 15 additional school districts to change their superintendent selection system, via referendum (Mould, 1975). With the ratification of a revised Florida Constitution in 1968, a funding mechanism for the school system was created, the state superintendent of schools was renamed the commissioner of education, all of the executive cabinet members became elected constitutional officers, and the remaining 48 counties were given the constitutional authority to change their system of designating the district superintendent of schools (Mould, 1975; Florida Department of Education, 1974). Article IX, Section 5 of the Constitution of the State of Florida gives such authority to districts:

> In each school district there shall be a superintendent of schools. He shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district board, or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.

Section 230.241, Florida Statutes, establishes the procedure by which a district would change from an elective school superintendent system to an appointive system (see Appendix A). It requires the school board to adopt a formal resolution to be presented to the board of county commissioners. The statutes then require the county commission to put the resolution on the ballot of a general election to be decided by the electorate of that county. This action can be repealed after four years by the same process. Of the 23 counties (out of 67 total) that have switched from an elected system to an appointed system, only Lake County has ever returned to electing its superintendent. Therefore, at present, 22 counties appoint their local superintendent.

**Efforts to Change**

In 1978, a constitutional amendment was introduced to get rid of the cabinet system, of which the commission of education is just one part. Under the proposed replacement system, the commissioner of education would have become an appointed position. This constitutional amendment was rejected by the voters.

Senate Joint Resolution 794, introduced in 1989, proposed an amendment to Article IX, Section 5, of the Florida Constitution, that would have required (upon approval of the electors of the state in the general election in November 1990), "that each district school board employ the district superintendent of schools for that district as provided by law," (see Appendix A). This constitutional amendment would have affected those 45 school districts that currently elect their superintendent of schools. The proposed

resolution was defeated in the Senate committee on K-12 education by a 5-3 vote. Its House companion bill (HB 1296) died in a subcommittee. Neither bill was reintroduced during the 1990 legislative session.

GEORGIA

**Structure**

The state board of education is appointed by the Governor in Georgia, but the state superintendent of schools is elected to four-year terms. Of the 186 school districts in the state, 142 local schools boards are elected, 41 school boards are appointed by the local grand jury, and 3 boards have a mixed system of selecting members.

Superintendents are both elected and appointed. Although a large majority of the local school boards in Georgia are elected, the margin for superintendents is much smaller: 113 are elected, and 73 are appointed. As in the other states discussed here, with the exception of Florida, the system of selecting superintendents can be changed statewide with the passage of a general law or locally with the passage of a local statute.

**Efforts to Change**

Very few pieces of legislation have been introduced in Georgia requiring district superintendents to be appointed uniformly. However, several attempts have been made to revise the state constitution to change the elected office of state superintendent to an appointed office. On each previous occasion this measure has been put to the voters of Georgia, it has failed, including both times in the past five years--the second time by a larger margin than the first. The lead organization in this movement has been the Georgia School Boards Association (GSBA). Senate education committee staff suggests that GSBA is using the state superintendent revision to "test the waters" before introducing a proposal that would change the system locally. The legislative

specialist for the Georgia Department of Education (Newsome, 1990) indicated that the heart of this debate lies in the idea that the "philosophy of local control is alive and well in Georgia" and, therefore, state politicians have been unwilling to support any measures to change local education governance structures. The likelihood of change to an appointed superintendency system in Georgia is considered small.

MISSISSIPPI

**Structure**

The Mississippi State Board of Education is made up of nine members--five appointed by the Governor, two by the speaker of the House, and two by the Lieutenant Governor. Of these nine members, one teacher and one school administrator are required to serve on the state board. Under the Education Reform Act of 1982, the state superintendent of schools position was changed from an elected position to one appointed by the state board of education.

Five types of school districts make up Mississippi's 152 districts: county, consolidated, municipal separate, special municpal separate, and agricultural. The only distinction among the various types of schools districts is the manner of selection of local school board members and school superintendents. There are 82 counties, although each one does not have its own school district. Four counties have a municipal school district that encompasses the entire district; 11 counties are split into 2 or more consolidated school districts.

School boards in every county-wide district except for one and in all consolidated districts are elected from single-member voting districts. Municipal separate, special municpal separate, and agricultural school districts have appointed school board members, with the exception of certain municipal districts with added territory. This may change because of the press to make school boards more accountable within a system that allows school boards to increase local school budgets annually by up to 7 percent without voter approval.

Superintendents in municipal, separate municipal, agricultural, and consolidated districts normally are appointed. Many county superintendents of education are elected. The ratio of elected to appointed district superintendents in Mississippi is closest of the six states to being evenly divided: 65 are elected, and 87 are appointed. The system of selection can be changed at the district level by local referendum and at the state level by general legislation. Beginning next year, all local school superintendents will be required to hold an AA certification in school administration (equivalent to a master's degree) to hold office. Incumbents were grandfathered in during the last election and given four years to meet this requirement.

**Efforts to Change**

Bills requiring district school boards to appoint superintendents have been introduced and defeated every year for the past five years in the Mississippi Legislature. Although the present system is strongly criticized by educators in general in the state and the state Parent-Teacher Organization, the measure has been defeated each year with the assistance of a very powerful statewide superintendents' association. A compromise bill was passed in 1988 that allowed each district currently electing its superintendent to vote on changing to an appointive process. None of these districts voted to change its system. This is interpreted by many state organizations and legislators to indicate that there is no popular sentiment for the change. It is predicted that the issue will come up again in Mississippi, but its passage is doubtful. A related issue in Mississippi involves the proliferation of lawsuits filed against the state that call its

system of electing school officials discriminatory. The National Association for the Advancement of Colored People (NAACP) has filed several lawsuits against the state, arguing that they feel that the electoral structure of its school district elections inhibits minority participation and representation.

SOUTH CAROLINA

**Structure**

Of the 17 lay persons appointed to the South Carolina State Board of Education, only one is selected by the Governor. The remaining 16 members are appointed by the legislative delegations in South Carolina's 16 judicial circuits. Judicial circuits, which incorporate multiple counties, rotate the appointment of board members among the legislative delegations within each circuit. The state superintendent of schools, however, is elected. There are 91 school districts.

The South Carolina Constitution allows for either the appointment or election of both local school board (also known as boards of trustees) members and district superintendents. In the past, an individual board of trustees could have some seats elected and some appointed, but, increasingly, local school board members in South Carolina are being elected. Presently, 77 local boards are elected, 10 are appointed by the county board of education, 1 is appointed by the county legislative delegation, and 3 have a mixed selection method (i.e., some appointed, some elected).

With the exception of two school districts, superintendents are appointed by the local board of trustees. In the two districts that elect local superintendents, one has an elected board, and the board in the other is selected by both election and appointment. As in most of the states discussed here, changing the procedure for superintendent selection at the state level requires general legislation, and changes at the district level require only local legislation.

**Efforts to Change**

For the last five or six years, one state senator has introduced legislation to restructure the state board and to make the state superintendent an appointed position. Thus far, these efforts have been unsuccessful. However, the current governor is pushing strongly for the creation of an executive cabinet that would include the state superintendent.

Not much attention has been focused on mandating the appointment of all district superintendents in South Carolina. This is simply because only two district superintendents are currently elected. Similar to the situation in Georgia, the emphasis has been on revising the state's constitution making the office of state superintendent of schools appointed. However, South Carolina Senate staff does not predict any change in the school system's administrative structure in the near future. A growing trend in South Carolina is the move away from appointing members to local boards of trustees. State legislation has been introduced for several years that would mandate that all local school board members to be elected in nonpartisan elections. The latest attempt, in 1989, House Bill 4401, was defeated in the Senate.

TENNESSEE

**Structure**

The Tennessee State Board of Education is made up of lay persons appointed by the Governor. The chief state school officer, known as the commissioner of education, is appointed by the Governor, and sits as an ex officio member of the state board of education. Tennessee has 140 school districts, each of which has an elected school board. District superintendents are either elected or appointed. If the superintendent is appointed, selection may be made by the local school board or by the board of county commissioners.

While a majority of the state's district superintendents are still elected (81), 49 are appointed by the local school board and 10 by the boards of county commissioners. In Tennessee's largest county, Shelby, the superintendent of schools is selected by the board of county commissioners. A school district can change from electing to appointing its superintendent with a local referendum or a private act, and Tennessee requires only a general bill, passed by the state legislature, to change the system statewide.

**Efforts to Change**

The Tennessee Legislature, in 1989 for the third year, defeated a measure that would require the appointment of all district superintendents. Senate Bill 336 would have abolished the position of elected school superintendent and replaced the office with that of an appointed superintendent, thereby transferring the administrative and executive power over schools to the school board. The bill also would have empowered school

boards to employ and contract with an individual for the position of superintendent of schools and to enact additional certification requirements for superintendents as they saw fit. Although Senate Bill 336 passed the Senate education committee and survived a Senate floor vote, it was defeated on the House floor.

The executive director of the Tennessee School Boards Association commented in Education Week (June 7, 1989) that "Drumming up popular support for the measure was difficult because many Tennesseans would like to elect the janitors, the bus drivers, and the cooks if they could" (p. 11). But the Office of Legislative Affairs in the Tennessee Department of Education predicts that legislation requiring the appointment of all district superintendents has the "best chance ever" of passing as part of a major education reform package currently being developed by the Governor for the 1991 session.

## THE CASE FOR ELECTING AND APPOINTING SUPERINTENDENTS

This section outlines the most prevalent argument used in support of electing superintendents and also in support of appointing superintendents. These arguments were compiled principally from three sources: Mould (1975), Leps (1968), and Kimbrough & Jones (1963). Many of these arguments were used widely in the literature and also by those individuals interviewed. The arguments used in 1989 to support the appointment of all local superintendents in Florida were the same arguments used in the literature as early as 1963.

**In Favor of Electing District Superintendents:**

- Public schools belong to the people, and the public should maintain control of the schools via the exercise of the right to the ballot.
- Because they are chosen by the people, elected superintendents are closer to the electorate and are more likely to be responsive to their needs and desires.
- Elected superintendents are independent and not subject to the "whims" of the school board. Having the authority to appoint superintendents could reduce power of the electorate in decisionmaking and strengthen the autocratic rule of the school board.
- An appointed superintendent could be chosen as a "puppet" for school board control.
- The control of public school by the people should not be exchanged for the promise of greater efficiency.
- Historically, appointing school superintendents has opened avenues for high rates of turnover and abuses of power in office.

**Arguments in Favor of Appointing District Superintendents:**

- The elected school board is better able to select a qualified person for the office than the general electorate because:
  - They can set their own qualifications for office.
  - The choice is not limited by geographical area.
  - The salary can be established at the discretion of the board.

- A smaller group can make important decisions easier and quicker.
- It is sound business practice to allow a board of directors to select the chief executive officer (CEO); this fixes responsibility in an administration.

o The time and efforts of an appointed superintendent can be spent doing the educational job. Elected superintendents run for office while they are running the schools.

o Schools are really closer to the people when they can hold the elected school board completely responsible for the schools.

o Appointing district superintendents helps to take schools out of partisan politics. The superintendency becomes a professional job, instead of political, under an appointed system.

o An elected superintendent and an elected school board claim different mandates from the people, causing confusion and conflict. Under an elected superintendent, responsibility is diffused, and people do not know who to hold accountable.

o Being responsible to a school board can reduce the potential for abuses of power while in office (e.g., appointment of friends or relatives to school district positions without review).

## THE RATIONALE FOR CHANGE

Part of the complexity of the debate over appointing superintendents, as opposed to electing them, is attributed to the large number of players involved in the issue. Numerous educational associations, as well as politicians, professional groups, civil rights groups, and local governments, all have interests in the outcome of this trend toward the professionalization of the administrative and political aspects of operating a school system. In most of the states facing this issue, the lead proponents have been the state school boards association and the state board of education. In Tennessee and Mississippi, political and business organizations such as the League of Women Voters and the Chamber of Commerce also have become involved in this issue. Overall, teacher unions have remained neutral, and, because their membership includes both appointed and elected superintendents, state school administrators' associations have oscillated in support of or opposition to uniformly appointing district superintendents.

Those groups working in support of appointing district superintendents are largely concerned with the qualifications of elected superintendents, as opposed to the qualifications of appointed superintendents. Florida State Senator Carrie Meek, sponsor of Florida's SJR 794, believes that school districts need a process to ensure that they have the best-qualified administrators for their school systems. This statement is based on the assumption that appointed superintendents would be more highly educated, would be better qualified, and would provide more stability in office. Meek's legislative proposal, aimed at changing the mixed system in Florida, is based

on these beliefs. Dr. Richard Miller, of the American Association of School Administrators, echoes this concern with a proposal: those superintendents who are elected should be required to have the same qualifications as those superintendents who are appointed. The president of the Florida School Boards Association has argued that since there are no specifications or criteria to run for the office of superintendent, there are no safeguards against mismanagement (Cummings, 1989).

The importance of the role of district superintendent of schools is equated by supporters of appointing superintendents to being the elected chief executive officer of the largest business in a school district. Another rationale for advocating uniformity in the selection of superintendents is that smaller counties experience great difficulty in finding, within their limited population, a highly qualified educational leader who also would be willing to run for office. A related issue is the negative impact experienced by schools when they are inadvertently involved in local politics. Florida State Senator Marleene Woodson-Howard described the "warfare" common to some of the political battles that occur during local election campaigns, such as those for local superintendents, as exceedingly disruptive, in this case to the local school system.

Many of the reasons cited by groups interviewed aligned closely with the literature. One such argument is that operating and maintaining an effective school system today requires professional, knowledgeable leadership. Also, having an elected school board and an elected superintendent may create dual accountability. It is suggested in the literature that such dual

accountability creates a dichotomy of responsibility and authority between the board and its executive officer and confuses the electorate. Local citizens may not know who to hold accountable when the schools fail to succeed, and, consequently, may hold the school board responsible. This is because it is easier to remove a school board member from office in a single-member district voting system than it is to unseat a superintendent who is elected at large for the entire school district (Cummings, 1989).

## RESISTANCE TO CHANGE

Two groups are most opposed to mandating, on a statewide basis, the appointment of local superintendents: elected superintendents and state legislators. (In Florida, the state association of school administrators also opposes the uniform appointment of superintendents.) Elected superintendents tend to have strong ties to the community, to local leaders, and to state politicians. They are an effective lobbying force in every state examined in this study. Legislators tend to be sympathetic to pleas from constituents concerned about losing yet another opportunity to vote. This "plea," in fact, is the single most common and most effective argument against changing the system statewide. Some policymakers assert that the stronghold on electoral power visible in southern states is a carryover from the Reconstruction period, in which local control has become ingrained in the cultures of many communities. This strong desire for local control also could be the reaction to the education reforms of a decade ago in which school system operations became highly centralized within the state government structure.

Superintendents at a Senate education committee hearing in Florida (1989) repeatedly expressed the strong conviction that districts are best qualified to choose individually how to run their school system According to both the Florida Department of Education and the Florida Association of School Administrators, if a district wants to change the method by which it selects its superintendent of schools, the procedure for doing so is already in place. In each state studied, a mechanism for changing from electing to appointing superintendents is present at the local level, as well as at the state level.

It is widely believed that whether district superintendents should be elected or appointed is a local issue, and each district should have its own opportunity to decide.

Because the school system is often the largest employer in many rural communities, greater electoral control over the decision-making process is normally viewed as desirable. Many opponents to reform measures that would change local school administrative structure feel that those districts electing the superintendent of schools do so because they find it to be the best way to operate the schools in their district. In both Mississippi and Georgia, a proposed change from electing to appointing superintendents statewide went before the electors of the state and failed. Only Tennessee shows signs of diminishing opposition to mandating the appointment of all local superintendents.

Both local superintendents in Florida and the Florida Department of Education made statements asserting that the capabilities of elected and appointed superintendents depend less on the method of selection than on each individual superintendent's talents and abilities. According to the state association of school administrators, elected superintendents in Florida have statistically shown greater tenure in office than appointed officers, and all of these superintendents have at least a masters' degree. It is also suggested that, in the appointed system of superintendent selection, there are no women and no minorities hired. However, this problem is not exclusive to appointed superintendents, and it can be argued that the same racial and gender discrepancies are present in both types of systems. According to

Education Week (April 25, 1990, p. 3), a 1987 U.S. Census survey found that, of those for whom race was reported, 95 percent of all school board members, superintendents, and other elected officials in school districts were white, 2 percent were black, and 2 percent were Hispanic. The survey also indicated that 73 percent of the same group of local officials were male. These findings may also be attributed more to the fact that 87 percent of these elected officials were chosen on an at-large basis, as opposed to single-member district voting.

## CONCLUSIONS

Within the educational arena, there remains much disagreement between groups as to the best system of administration at the local level. The school system in many southern school districts represents the largest business presence in the county. Therefore, its operation is of great concern and interest to the local electorate in many communities. While many education, civic and political organizations have vested interests in this issue, state school board associations have been the lead organizations in the pursuit of this issue. This may be attributed to the fact that they have the most to gain by universalizing the practice of appointing district superintendents. Policymakers prefer the elective system of superintendent selection, educators prefer appointing professional superintendents. Legislators are concerned with electoral power, tending to feel a "brotherhood" with locally elected officials. Educators, on the other hand, feel that professional and technical guidance is more essential to the success of a school system.

The six states examined in this study vary not only in education governance patterns, but also in terms of the relative importance of appointing, as opposed to electing, the district superintendent of schools. Tennessee is the only state in which a strong possibility exists for change to an entirely appointed local superintendency. In South Carolina and Georgia, the issue is insignificant; South Carolina elects only 2 of 91 district superintendents, and in Georgia there has been no movement to change the selection process for local superintendents. Alabama and Mississippi view the proliferation of lawsuits filed, alleging their local electoral systems are

discriminatory, as more critical an issue than the superintendency issue. In three states, Florida, South Carolina, and Georgia, the state superintendent is elected, and this elected office seems to be a holding point for Georgia's struggle to mandate the appointment of district superintendents. Although these six southern states differ in many ways, they are similar in the fact that they are, with the possible exception of Florida, characteristically rural, Reconstruction states.

The historical ramifications of Reconstruction in the South may play a key role in the continued resistance to appointing district superintendents. The "Carpetbag Regime" of the antebellum period in the South is marked by rampant abuse of political power and profiteering, but, at the same time, it also marks the establishment of previously nonexistent public services, like schools and medical care, to whites and blacks. On one hand, the radical Republican government allowed political involvement on the part of blacks and attempted to dismantle the Black Codes, but, on the other hand, it also tended to enact politically repressive policies and depended on military power to enforce its mandates. The large number of political appointments of scalawags and carpetbaggers to state and local offices and the resulting abuses resulted in an extreme suspicion of outside control and embedded the practice of electing local officials. Local control in the South is considered a basic democratic right and continues to be an important issue in many communities.

Interestingly, local control is again coming to the forefront as an important issue as states strive to decentralize the administration of the school systems in the name of "restructuring" or "school-based management."

Legislative initiatives designed to change mixed systems of electing and appointing superintendents that are supported in the South have failed time after time. Even though the literature demonstrates a growing preference toward the professionalization of school district administration (Dye, 1985; Eliot, 1959; Wirt & Kirst, 1989), empirical evidence supporting either method of choosing superintendents is not conclusive. Even though the school system continues to become more intricate and cumbersome--requiring more expertise on the part of administrators--the evidence seems to indicate that any attempt to take the electorate out of the superintendent selection process in the South would be a difficult battle.

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# APPENDIX A

Florida Senate Resolution 794

&

Florida Statutes Relating to District Superintendents

# SJR 794

By Senator Meek

38 1053 89

Senate Joint Resolution No. _____

A joint resolution proposing an amendment to Section 5, Article IX of the State Constitution, relating to district superintendents of schools.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 5 of Article IX of the State Constitution is hereby agreed to and shall be submitted to the electors of the state for approval or rejection at the general election to be held in November 1990:

ARTICLE IX

EDUCATION

SECTION 5. Superintendent of schools.-- In each school district there shall be a superintendent of schools. The district school board of each school district shall employ the superintendent of schools for that district as provided by general law. ~~He shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board; or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.~~

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE IX, SECTION 5

SUPERINTENDENT OF SCHOOLS.--Proposing an amendment to the State Constitution to require that each district school board employ the district superintendent of schools for that district as provided by general law.

This publication was produced at an average cost of 2 cents per page for the information of members of the Legislature and the public.



CODING: Words stricken are deletions; words underlined are additions

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REVISED: _____ BILL NO. SJR 794

DATE: May 5, 1989 Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | White | O'Farrell | ED | |
| 2. | | | RC | |
| 3. | | | | |
| 4. | | | | |

SUBJECT:

Appointed Superintendents

BILL NO. AND SPONSOR:

SJR 794 by
Senator Meek

I. SUMMARY:

A. Present Situation:

Section 5 of Article IX of the Florida Constitution requires a school superintendent to be elected unless the voters approve a school board resolution or special law that directs the school board to employ the superintendent. In 22 school districts, those special laws have passed and the school boards now appoint their superintendents: Alachua, Brevard, Broward, Calhoun, Charlotte, Dade, Duval, Flagler, Hernando, Hillsborough, Indian River, Lee, Manatee, Martin, Okeechobee, Orange, Palm Beach, Pinellas, St. Lucie, Sarasota, Sumter, and Volusia.

B. Effect of Proposed Changes:

This joint resolution would propose an amendment to the Constitution to require school boards to employ their superintendents. If the voters approved the amendment in the November 1990 election, the 45 school districts that elect their superintendents would change to appointed superintendents.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.



IV. AMENDMENTS:

None.

# BILL VOTE SHEET

(S-88: File with Secretary of Senate) BILL NO. SJR 794

COMMITTEE ON: Education

DATE: May 10, 1989

TIME: 2:30 pm - 5:00 pm

PLACE: Room A

OTHER COMMITTEE REFERENCES:
(in order shown)

RC

ACTION:

___ Favorably with _____ amendments

___ Favorably with Committee Substitu

X Unfavorably

___ Submitted as a Committee Bill

___ Temporarily Passed

___ Reconsidered

___ Not Considered

THE VOTE WAS:

| FINAL BILL VOTE | | SENATORS | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Ave | Nay | | Ave | Nay | Ave | Nay | Ave | Nay | Ave | Nay | Ave | Na |
| | X | D.C. Childers | | | | | | | | | | |
| X | | Forman | | | | | | | | | | |
| X | | Gardner | | | | | | | | | | |
| | | Myers | | | | | | | | | | |
| | X | Peterson | | | | | | | | | | |
| | X | Stuart | | | | | | | | | | |
| X | | Woodson-Howard | | | | | | | | | | |
| | | MAJORITY LEADER Gordon | | | | | | | | | | |
| | X | VICE-CHAIRMAN Walker | | | | | | | | | | |
| | X | CHAIRMAN Johnson | | | | | | | | | | |
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ARTICLE X

EDUCATION

Sec.

1 System of public education
2 State board of education
3 Terms of appointive board members
4 School districts; school boards
5 Superintendent of schools
6 State school fund

**SECTION 1. System of public education.**—Adequate provision shall be made by law for a uniform system of free public schools and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require.

**SECTION 2. State board of education.**—The governor and the members of the cabinet shall constitute a state board of education, which shall be a body corporate and have such supervision of the system of public education as is provided by law.

**SECTION 3. Terms of appointive board members.**—Members of any appointive board dealing with education may serve terms in excess of four years as provided by law.

**SECTION 4. School districts; school boards.**—

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs.

**SECTION 5. Superintendent of schools.**—In each school district there shall be a superintendent of schools. He shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board, or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.

**SECTION 6. State school fund.**—The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.

**230.22 General powers of school board.**—The school board, after considering recommendations submitted by the superintendent, shall exercise the following general powers:

(1) DETERMINE POLICIES AND PROGRAMS.—The school board shall determine and adopt such policies and programs as are deemed necessary by it for the efficient operation and general improvement of the district school system.

(2) ADOPT RULES AND REGULATIONS.—The school board shall adopt such rules and regulations to supplement those prescribed by the state board as in its opinion will contribute to the more orderly and efficient operation of the district school system.

(3) PRESCRIBE MINIMUM STANDARDS.—The school board shall adopt such minimum standards as are considered desirable by it for improving the district school system.

(4) CONTRACT, SUE, AND BE SUED.—The school board shall constitute the contracting agent for the district school system. It may, when acting as a body, make contracts, also sue and be sued in the name of the school board, provided, that in any suit, a change in personnel of the school board shall not abate the suit, which shall proceed as if such change had not taken place.

(5) PERFORM DUTIES AND EXERCISE RESPONSIBILITY.—The school board may perform those duties and exercise those responsibilities which are assigned to it by law or by regulations of the state board and, in addition thereto, those which it may find to be necessary for the improvement of the district school system in carrying out the purposes and objectives of the School Code. The Legislature recognizes the necessity for well informed school board members and the benefits to education that may be obtained through board member participation in professional development and training seminars and related activities at the district, state, and national levels.

History.—s. 422, ch. 19356, 1939; CGL 1940 Supp. 692(85); s. 21, ch. 65-238; s. 1, ch. 69-300; s. 26, ch. 72-221; s. 33, ch. 73-333; s. 6, ch. 74-100; s. 11, ch. 76-223; s. 1, ch. 80-206.

**230.202 District school board members; compensation.**—Each member of the district school board shall receive as salary the amount indicated, based on the population of his county. In addition, compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. Laws which increase the base salary herein provided shall contain provisions on no other subject.

| Pop. Group | County Pop. Range | | Base Salary | Group Rate |
|---|---|---|---|---|
| | Minimum | Maximum | | |
| I | -0- | 9,999 | $5,000 | $0.083300 |
| II | 10,000 | 49,999 | 5,833 | 0.020830 |
| III | 50,000 | 99,999 | 6,666 | 0.016680 |
| IV | 100,000 | 199,999 | 7,500 | 0.008330 |
| V | 200,000 | 399,999 | 8,333 | 0.004165 |
| VI | 400,000 | 999,999 | 9,166 | 0.001390 |
| VII | 1,000,000 | | 10,000 | 0.000000 |

History.—s. 1, ch. 61-461; s. 1, ch. 63-560; s. 1, ch. 65-356; s. 2, ch. 67-578; s. 5, ch. 69-346; s. 3, ch. 73-173; ss. 19, 20, ch. 80-377.
Note.—Former s. 145.041.



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**230.24 Superintendent; election and term of office.**
The superintendent shall be elected for a term of 4 years or until the election or appointment and qualification of his successor.
History.—s. 424, ch. 19355, 1939; CGL 1940 Supp. 892(87); s. 1, ch. 69-300.

**230.2405 Accreditation of school unaffected by educational qualifications of superintendent.—**
(1) No accreditation association shall use a standard which prescribes the educational qualifications of an elective district superintendent of schools who holds an earned bachelor's degree from an accredited institution of higher learning and which denies to the schools of the district membership in or accreditation by the association based solely on the lack of educational qualifications of the superintendent as prescribed by the association.
(2) The use of any standard by an accreditation association which denies accreditation or membership to the schools of a district based solely on the lack of educational qualifications, as prescribed by the association, of an elective district superintendent of schools who holds an earned bachelor's degree from an accredited institution of higher learning shall constitute a cause of action sufficient to support a remedy of injunctive relief in the courts of this state upon showing by the school board of the district that there exists no other grounds, reasons, or standards upon which the schools should be denied accreditation or membership in such association.
History.—ss. 1, 2, ch. 70-173.

**230.241 Superintendent; procedures for making office appointive.—**
(1) Pursuant to the provisions of s. 5, Art. IX of the State Constitution, the superintendent shall be appointed by the school board in a school district wherein the proposition is affirmed by a majority of the qualified electors voting in the same election making the office of superintendent appointive.
(2) To submit the proposition to the electors, the school board by formal resolution shall request an election, which shall be at a general election or a statewide primary or special election. The board of county commissioners, upon such timely request from the school board, shall cause to be placed on the ballot at such election the proposition to make the office of superintendent appointive.
(3) Any district adopting the appointive method for its superintendent may after 4 years return to its former status and reject the provisions of this section by following the same procedure outlined in subsection (2) hereof for adopting the provisions thereof.
History.—s. 1, ch. 69-160; s. 1, ch. 69-300; s. 37, ch. 72-221.

**230.303 Superintendent of schools.—**
(1) Each superintendent of schools shall receive as salary the amount indicated, based on the population of his county; however, a district school board, by majority vote, may approve a salary in excess of the amount specified herein. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. Laws which increase the base salary herein provided shall contain provisions on no other subject.

| Pop. Group | County Pop. Range Minimum | Maximum | Base Salary | Group Rate |
|---|---|---|---|---|
| I | -0- | 49,999 | $21,250 | $0.07875 |
| II | 50,000 | 99,999 | 24,400 | 0.06300 |
| III | 100,000 | 199,999 | 27,550 | 0.02625 |
| IV | 200,000 | 399,999 | 30,175 | 0.01575 |
| V | 400,000 | 999,999 | 33,325 | 0.00525 |
| VI | 1,000,000 | | 36,475 | 0.00400 |

(2) On October 1, 1973, no elected superintendent shall be caused to suffer a decrease in gross salary as a result of the implementation of subsection (1).
(3) This section does not apply to a superintendent of schools appointed pursuant to the terms of s. 230.321.
(4)(a) There shall be an additional $2,000 per year special qualification salary for each superintendent of schools who has met the certification requirements established by the Department of Education. Any superintendent of schools who is certified during a calendar year shall receive in that year a pro rata share of the special qualification salary based on the remaining period of the year.
(b) In order to qualify for the special qualification salary provided by paragraph (a), the superintendent must complete the requirements established by the Department of Education within 6 years after first taking office, except that those superintendents holding office on July 1, 1980, shall have until July 1, 1986, to complete such requirements.
(c) After a superintendent meets the requirements of paragraph (a), in order to remain certified the superintendent shall thereafter be required to complete each year a course of continuing education as prescribed by the Department of Education.
(5)(a) The Florida Council on Educational Management shall provide a leadership development and performance compensation program for superintendents of schools, comparable to chief executive officer development programs for corporate executive officers, to include:
1. A content-knowledge-and-skills phase consisting of creative leadership models and theory, demonstration of effective practice, simulation exercises and personal skills practice, and assessment with feedback, taught in a professional training setting under the direction of experienced, successful trainers.
2. A competency-acquisition phase consisting of on-the-job application of knowledge and skills for a period of not less than 6 months following the successful completion of the content-knowledge-and-skills phase. The competency-acquisition phase shall be supported by adequate professional technical assistance provided by experienced trainers approved by the Florida Council on Educational Management. Competency acquisition shall be demonstrated through assessment and feedback.
(b) Upon the successful completion of both phases and demonstrated successful performance, as determined by the Florida Council on Educational Management, a superintendent of schools shall be issued a Chief Executive Officer Leadership Development Certificate and shall be given an annual performance salary incentive of not less than $3,000 or more than $7,500 based upon his performance evaluation.
(c) A superintendent's eligibility to continue receiving the annual performance salary incentive is contingent upon his continued performance assessment and follow-up training prescribed by the Florida Council on Educational Management.

**230.31 Secretary and executive officer of the school board.**—The superintendent shall be the secretary and executive officer of the school board; provided that when the superintendent of any district is required to be absent on account of performing services in the volunteer forces of the United States or in the National Guard of the State or in the regular Army or Navy of the United States, when the said superintendent shall be called into active training or service of the United States under an Act of Congress or pursuant to a proclamation by the President of the United States, he shall then be entitled to a leave of absence for not to exceed the remaining portion of the term for which he was elected.

History.—s. 431, ch. 19355, 1939; CGL 1940 Supp. 852(59); s. 2, ch. 20970, 1941; s. 1, ch. 69-300.

**230.32 General powers of superintendents.**—The superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the superintendent shall exercise the following powers:

(1) GENERAL OVERSIGHT.—Exercise general oversight over the district school system in order to determine problems and needs, and recommend improvements.

(2) ADVISE, COUNSEL, AND RECOMMEND TO SCHOOL BOARD.—Advise and counsel with the school board on all educational matters and recommend to the school board for action such matters as should be acted upon.

(3) RECOMMEND POLICIES.—Recommend to the school board for adoption such policies pertaining to the district school system as he may consider necessary for its more efficient operation.

(4) RECOMMEND AND EXECUTE RULES AND REGULATIONS.—Prepare and organize by subjects and submit to the school board for adoption such rules and regulations to supplement those adopted by the state board as, in his opinion, will contribute to the efficient operation of any aspect of education in the district. When rules and regulations have been adopted, the superintendent shall see that they are executed.

(5) RECOMMEND AND EXECUTE MINIMUM STANDARDS.—From time to time to prepare, organize by subjects, and submit to the school board for adoption such minimum standards relating to the operation of any phase of the district school system as are needed to supplement those adopted by the state board and as will contribute to the efficient operation of any aspect of education in the district; to see that minimum standards adopted by the school board are observed.

(6) PERFORM DUTIES AND EXERCISE RESPONSIBILITIES.—Perform such duties and exercise such responsibilities as are assigned to him by law and by regulations of the state board.

History.—s. 432, ch. 19355, 1939; CGL 1940 Supp. 852(59); s. 1, ch. 69-300.

**230.321 Superintendents employed under Art. IX, State Constitution.**—

(1) In every district authorized to employ a superintendent of schools under Art. IX of the State Constitution, he shall be the executive officer of the school board and shall not be subject to the provisions of law, either general or special, relating to tenure of employment or contracts of other school personnel. His duties relating to the district school system shall be as provided by law and rules of the State Board of Education.

(2) The school board of each of such districts shall enter into contracts of employment with the superintendent of schools and shall adopt rules and regulations relating to his appointment.

(3) The school board of each such district shall pay to the superintendent of schools a reasonable annual salary. In determining the amount of compensation to be paid, the board shall take into account such factors as:

(a) The population of the district.

(b) The rate and character of population growth.

(c) The size and composition of the student body to be served.

(d) The geographic extent of the district.

(e) The number and character of the schools to be supervised; and

(f) The educational qualifications, professional experience, and age of the candidate for the position of superintendent.

History.—ss. 1, 2, ch. 57-328; s. 29, ch. 65-229; s. 1, ch. 67-341; ss. 10, 21, ch. 69-216; repealed eff. [illegible] by s. 6A, Art. VIII of the Constitution of 1885, as amended, and reenacted by s. 10, Art. XII of the Constitution as revised in 1968; s. 1, ch. 69-300; s. 1, ch. 70-190; s. 1, ch. 82-242.

**230.33 Duties and responsibilities of superintendent.**—The superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law; provided, that in so doing he shall advise and counsel with the school board. The recommendations, nominations, proposals, and reports required by law and rule to be made to the school board by the superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the board. It shall be presumed that, in the absence of the record required in this paragraph, the recommendations, nominations, and proposals required of the superintendent were not contrary to the action taken by the school board in such matters.

(1) ASSIST IN ORGANIZATION OF BOARD.—Preside at the organization meeting of the school board and transmit to the Department of Education, within 2 weeks following such meeting, a certified copy of the proceedings of organization, including the schedule of regular meetings, and the names and addresses of district school officials.

(2) REGULAR AND SPECIAL MEETINGS OF THE BOARD.—Attend all regular meetings of the school board, call special meetings when emergencies arise, and advise, but not vote, on questions under consideration.

(3) RECORDS FOR THE BOARD.—Keep minutes of all official actions and proceedings of the school board and keep such other records, including records of property held or disposed of by the school board, as may be necessary to provide complete information regarding the district school system.

(4) SCHOOL PROPERTY.—Act for the school board as custodian of school property.

(a) *Recommend purchase and plans for control.*—Recommend to the school board plans for contracting, receiving, purchasing, acquiring by the institution of condemnation proceedings if necessary, leasing, selling, holding, transmitting, and conveying title to real and personal property.

(b) *Property held in trust.*—Recommend to the school board plans for holding in trust and administering property, real and personal, money, or other things of value, granted, conveyed, devised, or bequeathed for the benefit of the schools of the district or of any one of them.

(5) SCHOOL PROGRAM, PREPARE 5-YEAR AND ANNUAL PLANS FOR.—Supervise the assembling of data and sponsor studies and surveys essential to the development of a planned school program for the entire district and prepare and recommend such a program to the school board as the basis for operating the district school system.

(6) ESTABLISHMENT, ORGANIZATION AND OPERATION OF SCHOOLS, CLASSES, AND SERVICES.—Recommend the establishment, organization, and operation of such schools, classes, and services as are needed to provide adequate educational opportunities for all children in the district, including:

(a) *Schools and attendance areas.*—Recommend the location of schools needed to accommodate the pupils of the district and the area from which children should attend each school.

(b) *Recommend adequate facilities for all children.*—Recommend plans and procedures necessary to provide adequate educational facilities for all children of the district.

(c) *Elimination of school centers and consolidation of schools.*—Determine when the needs of pupils can better be served by eliminating school centers and by consolidating schools; recommend to the school board plans for the elimination of such school centers as should be eliminated and for the consolidation of such schools as should be consolidated.

(d) *Cooperation with other districts in maintaining schools.*—Recommend plans and procedures for cooperating with school boards of adjoining districts, in this state or in bordering states, in establishing school attendance areas composed of territory lying within the districts and for the joint maintenance of district line or other schools which should serve such attendance areas, and carry out such plans and administer such schools for which his district is to be responsible under any agreement which is effected.

(e) *Classification and standardization of schools.*—Recommend plans and regulations for determining those school centers at which work should be restricted to the elementary grades, school centers at which work should be offered only in the high school grades, and school centers at which work should be offered in any or in all grades; recommend the grade or grades in which work should be offered at each school center; recommend bases for classifying and standardizing the various schools of the district in order to provide proper incentive for the improvement of all schools.

(f) *Opening and closing dates of schools.*—Recommend and arrange for a uniform date each year for the opening of all schools in the district, unless other dates shall be found necessary and desirable; recommend and arrange the closing dates for all schools in the district, these dates to be so determined as to assure, as far as practicable, uniform terms for all schools in the district. Recommend regulations for the closing of any or all schools during an emergency and when emergencies arise to close any or all schools in the district and immediately notify the school board of the action taken and the reason therefor.

(g) *School holidays and vacation periods.*—Recommend school holidays to be observed and the manner of such observance by the schools and see that such holidays as are approved by the school board are properly observed; also recommend school vacation periods.

(h) *Vocational classes and schools.*—Recommend plans for the establishment and maintenance of vocational schools, departments, or classes, giving instruction in vocational education as defined in regulations of the state board, and administer and supervise instruction in such schools, departments, or classes as are established by the school board.

(i) *Cooperation with other districts in special projects or activities.*—Recommend plans and procedures for cooperating with other district school boards or with other agencies, in this state or in bordering states, in special projects or activities which can be more economically or advantageously provided by such cooperation.

(j) *School lunches.*—Recommend plans for the establishment, maintenance, and operation of a school lunch program consistent with state laws and regulations of the state board, and to administer and supervise such services.

(k) *Exceptional education.*—Recommend plans for the provision of special education classes, instruction, facilities, equipment, and related services for exceptional children.

(7) PERSONNEL.—Be responsible, as required herein, for directing the work of the personnel, subject to the requirements of chapter 231, and in addition he shall have the following duties:

(a) *Positions, qualifications, and nominations.*—Recommend to the school board duties and responsibilities which need to be performed and positions which need to be filled to make possible the development of an adequate school program in the district; recommend minimum qualifications of personnel for these various positions, and nominate in writing persons to fill such positions. All nominations for reappointment of supervisors and principals shall be submitted to the school board at least 8 weeks before the close of the postschool conference period. All nominations for reappointment of members of the instructional staff shall be made after conferring with the principals and shall be submitted in writing to the school board at least 6 weeks before the close of the postschool conference period.

(b) *Compensation and salary schedules.*—Prepare and recommend to the school board for adoption a salary schedule or salary schedules to be used as the basis for paying school employees, arranging such schedules, insofar as practicable, so as to furnish incentive for improvement in training and for continued and efficient service.

(c) *Contracts and terms of service.*—Recommend to the school board terms for contracting with employees and prepare such contracts as are approved. Contracts with the members of the instructional staff are to be prepared, recommended, and executed as hereinbefore prescribed. Authority is given to make appointments to approved positions and to approve compensation therefor at the rate provided in the currently established salary schedule, pending action by the local board at its next regular or special meeting.

(d) *Transfer and promotions.*—Recommend employees for transfer and transfer any employee during any

emergency and report the transfer to the school board at its next regular meeting.

(e) *Suspension and dismissal.*—Suspend members of the instructional staff and other school employees during emergencies for a period extending to and including the day of the next regular or special meeting of the school board and notify the school board immediately of such suspension. When authorized to do so, serve notice on the suspended member of the instructional staff of charges made against him and of the date of hearing. Recommend employees for dismissal under the terms prescribed herein.

(f) *Direct work of employees and supervise instruction.*—Direct or arrange for the proper direction and improvement, under regulations of the school board, of the work of all members of the instructional staff and other employees of the district school system and supervise or arrange under rules of the school board for the supervision of instruction in the district and take such steps as are necessary to bring about continuous improvement.

(8) CHILD WELFARE.—Recommend plans to the school board for the proper accounting for all children of school age, for the attendance and control of pupils at school, for the proper attention to health, safety, and other matters which will best promote the welfare of children at the following fields, as prescribed in chapter 232:

(a) *Admission, classification, promotion, and graduation of pupils.*—Recommend rules and regulations for admitting, classifying, promoting, and graduating pupils to or from the various schools of the district.

(b) *Enforcement of attendance laws.*—Recommend plans and procedures for the enforcement of all laws and regulations relating to the attendance of pupils at school and for the employment of such qualified assistants as may be needed by him to enforce effectively those laws.

(c) *Control of pupils.*—Propose rules and regulations for the control, discipline, suspension, and expulsion of pupils and review and modify recommendations for suspension and expulsion of pupils and transmit to the school board for action recommendations for expulsion of pupils. When the superintendent makes a recommendation for expulsion to the school board, he shall give written notice to the pupil and his parent or guardian of the recommendation, setting forth the charges against the pupil and advising the pupil and his parent or guardian of his right to due process as prescribed by s. 120.57(2). When school board action on a recommendation for the expulsion of a pupil is pending, the superintendent may extend the suspension assigned by the principal beyond 10 school days if such suspension period expires before the next regular or special meeting of the school board.

(9) COURSES OF STUDY AND OTHER INSTRUCTIONAL AIDS.—Recommend such plans for improving, providing, distributing, accounting for, and caring for textbooks and other instructional aids as will result in general improvement of the district school system, as prescribed in chapter 233 and including the following:

(a) *Courses of study.*—Prepare and recommend for adoption, after consultation with teachers and principals and after considering any suggestions which may have been submitted by patrons of the schools, courses of study for use in the schools of the district needed to supplement those prescribed by the state board.

(b) *Textbooks.*—Require that all textbooks and library books furnished by the state and needed in the district are properly requisitioned, distributed, accounted for, stored, cared for, and used, and recommend such additional textbooks or library books as may be needed.

(c) *Other instructional aids.*—Recommend plans for providing and facilitate the provision and proper use of such other teaching accessories and aids as are needed.

(d) *School library media services; establishment and maintenance.*—Recommend plans for establishing and maintaining school library media centers, or school library media centers open to the public, and, in addition thereto, such circulating or traveling libraries as are needed for the proper operation of the district school system. Recommend plans for the establishment and maintenance of a program of school library media services for all public school students. The school library media services program shall be designed to insure effective use of available resources and to avoid unnecessary duplication and shall include, but not be limited to, basic skills development, instructional design, media collection development, media program management, media production, staff development, and consultation and information services.

(10) TRANSPORTATION OF PUPILS.—Ascertain which pupils should be transported to school or to school activities, determine the most effective arrangement of transportation routes to accommodate these pupils; recommend such routing to the school board; recommend plans and procedures for providing facilities for the economical and safe transportation of pupils; recommend such rules and regulations as may be necessary and see that all rules and regulations relating to the transportation of pupils approved by the school board, as well as regulations of the state board, are properly carried into effect, as prescribed in chapter 234.

(11) SCHOOL PLANT.—Recommend plans, and execute such plans as are approved, regarding all phases of the school plant program, as prescribed in chapter 235, including the following:

(a) *School building program.*—Recommend plans and procedures for having a survey made under the direction of the department, or by some agency approved by the department, as a basis for developing a district-wide school building program as a phase of the 5-year program for the district and recommend such program when sufficient evidence is available, specifying the centers at which school work should be offered on the various levels, the type, size, and location of schools to be established, and the steps to be taken to carry out the program.

(b) *Sites, buildings, and equipment.*—Recommend the purchasing of school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed and of adequate size to meet the need of pupils to be accommodated; or of additions to existing sites when needed; recommend the rental of buildings when necessary; recommend the erection of build-

ings, recommend additions, alterations, and repairs to buildings and other school properties, ensure that all plans and specifications for buildings provide adequately for the safety of pupils as well as for economy of construction by submitting such plans and specifications to the Department of Education for approval, recommend the purchasing of furniture, books, apparatus, and other equipment necessary for the proper conduct of the work of the schools.

(c) *Maintenance and upkeep of the school plant* —Propose plans for assuring proper maintenance and upkeep of the school plant and for the provision of the utilities and supplies for the operation of the schools, and when the plans are approved by the school board, take such steps as are necessary to see that buildings are kept in proper sanitary and physical condition and that heat, lights, water, and power and other supplies and utilities are adequate.

(d) *Insurance of school property* —Propose plans and procedures for insuring economically every plant and its contents, boilers and machinery as well as school buses and other property, under the control of the school board and see that the proper records are kept of such insurance.

(e) *Condemnation of buildings* —Inspect periodically all school buildings and surroundings to determine whether there are any unsanitary conditions or whether there are physical hazards which are likely to jeopardize the health or life of the pupils or instructional staff, request competent assistance from the state or other authorized agency, if necessary, to determine whether buildings found to be defective should be condemned and to recommend to the school board condemnation of buildings which should be abandoned.

(12) FINANCE —Recommend measures to the school board to assure adequate educational facilities throughout the district, in accordance with the financial procedure authorized in chapters 236 and 237 and as prescribed below:

(a) *Plan for operating all schools for minimum term* —Determine and recommend district funds necessary in addition to state funds to provide for at least a 180-day school term or the equivalent on an hourly basis as specified by rules which shall be adopted by the State Board of Education and recommend plans for ensuring the operation of all schools for the term authorized by the school board.

(b) *Annual budget* —Prepare the annual school budget to be submitted to the school board for adoption according to law and submit this budget, when adopted by the school board, to the Department of Education on or before the date required by rules of the state board.

(c) *Tax levies.*—Recommend to the school board, on the basis of the needs shown by the budget, the amount of district school tax levy necessary to provide the district school funds needed for the maintenance of the public schools; recommend to the school board the tax levy required on the basis of the needs shown in the budget for the district bond interest and sinking fund of each district; and recommend to the school board to be included on the ballot at each district millage election the school district tax levies necessary to carry on the school program.

(d) *School funds* —Keep an accurate account of all funds which should be transmitted to the school board for school purposes at various periods during the year and see insofar as possible that these funds are transmitted promptly, report promptly to the school board any delinquencies or delays that occur in making available any funds that should be made available for school purposes.

(e) *Borrowing money* —Recommend when necessary the borrowing of money as prescribed by law.

(f) *Financial records and accounting* —Keep or have kept accurate records of all financial transactions.

(g) *Payrolls and accounts* —Maintain accurate and current statements of accounts due to be paid by the school board, certify these statements as correct, liquidate board obligations in accordance with the official budget and rules of the school board, and prepare periodic reports as required by rules of the state board, showing receipts, balances, and disbursements to date, and file copies of such periodic reports with the Department of Education.

(h) *Bonds for employees* —Recommend the bonds of all school employees who should be bonded in order to provide reasonable safeguards for all school funds or property.

(i) *Contracts* —After study of the feasibility of contractual services with industry, recommend to the school board the desirable terms, conditions, and specifications for contracts for supplies, materials, or services to be rendered and see that materials, supplies, or services are provided according to contract.

(j) *Investment policies* —The superintendent shall, after careful examination, recommend policies to the school board which will provide for the investment or deposit of school funds not needed for immediate expenditures which shall earn the maximum possible yield under the circumstances on such investments or deposits. The superintendent shall cause to be invested at all times all school moneys not immediately needed for expenditures pursuant to the policies of the school board.

(k) *Protection against loss* —Recommend programs and procedures to the school board necessary to protect the school system adequately against loss or damage to school property or against loss resulting from any liability for which the board or its officers, agents, or employees may be responsible under law.

(l) *Millage elections* —Recommend plans and procedures for holding and supervising all school district millage elections.

(m) *Budgets and expenditures* —Prepare, after consulting with the principals of the various schools, tentative annual budgets for the expenditure of district funds for the benefit of public school pupils of the district.

(n) *Bonds* —Recommend the amounts of bonds to be issued in the district and assist in the preparation of the necessary papers for an election to determine whether the proposed bond issue will be approved by the electors; if such bond issue be approved by the electors, recommend plans for the sale of bonds and for the proper expenditure of the funds derived therefrom.

(13) RECORDS AND REPORTS —Recommend such records as should be kept in addition to those prescribed by rules of the state board or by the department.

prepare forms for keeping such records as are approved by the school board; see that such records are properly kept; and make all reports that are needed or required as follows:

(a) *Forms, blanks, and reports.*—Require that all employees keep accurately all records and make promptly in proper form all reports required by the school code or by rules of the state board; recommend the keeping of such additional records and the making of such additional reports as may be deemed necessary to provide data essential for the operation of the school system; and prepare such forms and blanks as may be required and see that these records and reports are properly prepared.

(b) *Reports to the department.*—Prepare, for the approval of the school board, all reports that may be required by law or rules of the state board to be made to the department and transmit promptly all such reports, when approved, to the department, as required by law. If any such reports are not transmitted at the time and in the manner prescribed by law or by state board rules, the salary of the superintendent shall be withheld until such report has been properly submitted. Unless otherwise provided by regulations of the state board, the annual report on attendance and personnel shall be due on or before July 1, and the annual school budget and the report on finance shall be due on the date prescribed by the state board.

(c) *Failure to make reports; penalty.*—Any superintendent who knowingly signs and transmits to any state official a false or incorrect report shall forfeit his right to any salary for the period of 1 year from that date.

(14) COOPERATION WITH OTHER AGENCIES.—

(a) Recommend plans for cooperating with, and on the basis of approved plans to cooperate with, federal, state, county, and municipal agencies in the enforcement of laws and rules pertaining to all matters relating to education and child welfare.

(b) Recommend plans for identifying and reporting to the Department of Education the name of each child in the school district who qualifies according to the definition of a migratory child, based on Pub. L. No. 95-561, and for reporting such other information as may be prescribed by the department.

(15) ENFORCEMENT OF LAWS AND RULES.—Require that all laws and rules of the state board, as well as supplementary rules of the school board, are properly observed and report to the school board any violation which he does not succeed in having corrected.

(16) COOPERATE WITH SCHOOL BOARD.—Cooperate with the school board in every manner practicable to the end that the district school system may continuously be improved.

(17) VISITATION OF SCHOOLS.—Visit the schools, observe the management and instruction; give suggestions for improvement; and advise with supervisors, principals, teachers, patrons, and other citizens with the view of promoting interest in education and improving the school conditions of the district.

(18) CONFERENCES, INSTITUTES, AND STUDY COURSES.—Call and conduct institutes and conferences with employees of the school board, school patrons, and other interested citizens; organize and direct study and extension courses for employees, advising them as to their professional studies; assist patrons and people generally in acquiring knowledge of the aims, services, and needs of the schools.

(19) PROFESSIONAL AND GENERAL IMPROVEMENT.—Attend such conferences for superintendents as may be called or scheduled by the Department of Education and avail himself of means of professional and general improvement so that he may function most efficiently.

(20) RECOMMEND REVOKING CERTIFICATES.—Recommend in writing to the Department of Education the revoking of any certificate for good cause, including a full statement of the reason for his recommendation.

(21) MAKE RECORDS AVAILABLE TO SUCCESSOR.—Leave with the school board and make available to his successor upon retiring from office a complete inventory of school equipment and other property, together with all official records and such other records as may be needed in supervising instruction and in administering the district school system.

(22) RECOMMEND PROCEDURES FOR INFORMING GENERAL PUBLIC.—Recommend to the school board procedures whereby the general public can be adequately informed of the educational programs, needs, and objectives of public education within the district.

(23) OTHER DUTIES AND RESPONSIBILITIES.—Perform such other duties as may be assigned to him by law or by rules of the state board.

History.—s. 433, ch. 19355, 1939; CGL 1940 Supp. 6[0]-[0]; s. 3, ch. 29754, s. 42, ch. 29764, 1955; s. 5, ch. 59-121; s. 4, ch. 61-298; s. 7, ch. 63-376; s. 30, ch. 65-238; s. 1, ch. 67-238; ss. 5, 6, ch. 67-498; ss. 4, 5, ch. 68-13; s. 7, ch. 68-24; ss. 15, 19, 25, ch. 69-106; s. 1, ch. 69-300; s. 2, ch. 70-194; ss. 2, 3, ch. 70-399; ss. 5-8, ch. 71-164; s. 60, ch. 71-355; s. 58, ch. 71-377; ss. 40-46, ch. 72-221; s. 10, ch. 74-384; s. 12, ch. 78-223; s. 3, ch. 78-226; s. 16, ch. 78-423; s. 2, ch. 79-258; s. 6, ch. 80-288; s. 2, ch. 81-103; s. 2, ch. 81-241.

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# APPENDIX B

Tennessee Senate Bill 336

&

Tennessee Statutes Relating to District Superintendents

FISCAL NOTE

TO: Chief Clerk of the Senate
Chief Clerk of the House

FROM: Donald L. Morton, Executive Director

DATE: February 8, 1989

SUBJECT: Senate Bill 336 - House Bill 756

Senate Bill 336 provides for the following:

1) Provides for the superintendent to be elected by the school board;

2) Places administrative and executive power over schools in the local school board;

3) Requires training for all first year school board members; and

4) Gives the State Board the power to broaden licensure requirements for a school superintendent.

The fiscal impact on state and local governments from enactment of this bill is estimated to be minimal.

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

Donald L. Morton
Executive Director

SENATE BILL 336 - HOUSE BILL 756

Prefiled for introduction 2/1/89

SENATE BILL NO. 336

by

Henry

Dunavant, Lewis

AN ACT to establish a procedure to abolish the office of county superintendent of schools, to transfer powers of that office to county boards of education, to require training for boards of education members, and to amend and repeal such sections of Tennessee Code Annotated, Title 49, as are necessary for this purpose.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1-102, is amended by deleting, in subsection (c), the parentheses and number (1) before the words, "a local board of education" and by deleting the punctuation, number, and words,";and (2) a superintendent or director."

SECTION 2. Tennessee Code Annotated, Section 49-2-101, amended by deleting in subsection (1) the words, "also to elect county superintendents in certain counties where this is required by law; and to fill a vacancy when it occurs in the office of county superintendent, where they have elected the same;".

SECTION 3. Tennessee Code Annotated, Section 49-2-202, is amended by adding the following to subsection (a):

(5) All board members shall be properly trained according to the provisions of T.C.A. 49-2-2001 during their first year of service on the board of education. The minimum requirements for this training shall be established by the State Board of Education.

SECTION 4. Tennessee Code Annotated, Section 49-2-203, is amended by adding the following at the beginning of subsection (a):

All administrative and executive power over the public schools shall be vested in the board of education.

SECTION 5. Tennessee Code Annotated, Section 49-2-203, is further amended by adding the words, "a superintendent," after the word "elect," and before the word, "principals" in subsection (a)(1).

SECTION 6. Tennessee Code Annotated, Section 49-2-203, is further amended by adding the words, "the superintendent," in subsection (a)(7) between the words "supervisors" and "other employees."

SECTION 7. Tennessee Code Annotated, Section 49-2-301 is amended by adding at the beginning of subsection (a)(1) the following:

The board of education shall employ through written contract a superintendent for the public schools under its jurisdiction.

SECTION 8. Tennessee Code Annotated, Section 49-2-301, is further amended by deleting the words, "The standard for a license of qualification for a superintendent shall be as

follows," in subsection (a)(2) and substituting instead the following:

The State Board of Education shall establish minimum requirements for a license of qualification for a superintendent, which shall include but not be limited to the following:

SECTION 9. Tennessee Code Annotated, Section 49-2-301, is further amended by deleting subsections (b)(2) and subsections (c), (d), and (e) in their entirety.

SECTION 10. Tennessee Code Annotated, Section 49-2-301, is further amended by redesignating subsection (f) thereof to be subsection (c) thereof and by deleting the words "It shall be the duty of the board of education to assign to its superintendent the following duties:" in subsection (f) and substituting the following:

It shall be the duty of the board of education to assign to the superintendent such executive and administrative duties as are required to administer properly the public schools and to assist the local board of education. At a minimum, it shall be the duty of the board of education to assign to its executive and administrative personnel the following duties:

SECTION 11. Tennessee Code Annotated, Section 49-2-301(g) and (h) are repealed.

SECTION 12. Tennessee Code Annotated, Section 49-2-301, is further amended by adding the following subsection:

(d)(1) When a vacancy occurs in the position of county superintendent prior to the expiration of the term incumbent, the board of education shall employ a

superintendent in accordance with the provisions of T.C.A. 49-2-301.

(2) Any incumbent superintendent shall remain in the position of superintendent for the remainder of the term of that position, provided that at the conclusion of the term, the board of education shall employ a superintendent in accordance with T.C.A. 49-2-301.

(3) "Incumbent" shall mean the county superintendent holding office on the effective date of this act whether by popular election or by election of the county legislative body.

SECTION 13. Tennessee Code Annotated, Section 49-2-302 is repealed.

SECTION 14. Any reference contained in Tennessee Code Annotated, Title 49 or elsewhere, to the "county superintendent," the "county superintendent of public instruction", "county superintendent of schools," or like words shall be changed to "superintendent." The Tennessee Code Commission is directed to make any necessary editorial changes to effect the provisions of this section.

SECTION 15. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 16. This act shall take effect July 1, 1989 the public welfare requiring it.

S.B. 336 Henry - Passed out of Committee 5/4/0 with 2 amd.

The bill abolishes the position of the elected school superintendent. The Bill provides for the appointment of the superintendent by the local school board and the bill also provides for the training of school board members. The length of the contract for the superintendent is left to the discretion of the local school board.

Amendment #1 - is a committee amendment which will permit those counties that elect the superintendent by the county commission to continue this practice. Presently there are ten (10) counties that do this and there is a list of these counties in the bill folder.

Amendment #2 - is also a committee amendment which requires that any incumbent superintendent be given an interview for the new position or be permitted to run for re-election for one (1) more term.

Amendment #3 - is Senator Lashlee's amendment and it simply places his counties under the current provisions in the law and exempts his counties from this bill.

Amendment #4 - by Senator Cooper requires that all boards of education be elected by the people and that each member be required to have a high school diploma or its equivalent.

Amendment #5 - by Senator Patten requires that no new school superintendent be a board member or has been a board member within the past two years.

Amendment #6 - by Senator Patten requires the new superintendent to have a least 3 years experience as a principal or administrator. Current law only requires a total of five (5) years experience in teaching or administration.

Amendment #7 - by Senator Patten permits the county legislative body to call for an election to decide if the county would prefer to have an elected or an appointed school superintendent

Amendment #8 - by Senator Koella amends his counties out of the bill.

Amendment #9 - by Senator Koella limits the term of the contract of the superintendent to the same amount of time as the term of the board of education. The amendment also prohibits a superintendent from suing the board in the event his contract is not renewed.

## Part 3—County Administration

**49-2-301. School superintendent.** — (a)(1) The superintendent shall be a person of literary attainment and experience in the art of teaching and school administration, and must possess a license of qualification issued by the state board of education prior to his or her election pursuant to this section; provided, that no such license shall be revoked without a hearing to the holder as herein provided.

(2) The standard for a license of qualification for a superintendent shall be as follows:

(A) The applicant shall hold a teachers professional license with endorsement as principal and/or supervisor of instruction;

(B) The applicant shall hold a master's degree with a major in educational administration to include study areas such as:

(i) School organization and administration;

(ii) Supervision, curriculum development and evaluation;

(iii) School finance, housing and transportation;

(iv) School and community relationships;

(v) Technique of problem solving by group process; and

(C) The applicant shall have had five (5) years' experience to include both teaching and/or administrative experience.

(b)(1) It shall be unlawful for any person who has tuberculosis or any other communicable disease to serve as superintendent, and the board is given authority to require the superintendent to be examined by a competent physician whenever in its judgment such examination is justifiable and upon a certificate from a competent physician showing that the superintendent has any communicable disease that would endanger the health of the public school children, he shall be suspended until the physician certifies to the board that such disease has been cured; provided, that the board may fill such vacancy for the time such superintendent is suspended.

(2) Whenever it shall be established by two (2) competent physicians that the county superintendent of schools has become physically or otherwise incapacitated to perform those essential duties which are necessary for the operation of the county school system, the county executive of such county may declare that such county superintendent of schools is temporarily unable to perform the duties of his office; upon such declaration the county board of education is hereby authorized to appoint an acting executive secretary who shall perform such essential duties of the office as are necessary for the operation of the county school system; provided, that when it shall be established by two (2) competent physicians that the county superintendent of schools is again able to perform the duties of the office, it shall be the duty of the county executive to make a declaration that the county superintendent of schools is again able to perform the duties of the office, whereupon the position of acting executive secretary shall terminate; provided further, that any county superintendent who may come under the provisions of this subdivision shall continue to draw his established salary for the full time covered by his contract or elected term.

(c)(1) In all cases where now or hereafter the method of election shall not be fixed differently by special legislation, the county legislative bodies of the several counties of this state are authorized to elect some person possessing the appropriate qualifications as prescribed in subsection (a) as county superintendent of public instruction.

(2) The election thereof shall be conducted in the same manner as other elections by the county legislative body and shall be held at the first meeting of the county legislative body, in the year 1957 and quadrennially thereafter.

(3) The person so elected shall possess all qualifications therefor now required by law and upon his election, shall execute bond in an amount to be fixed by the county executive and likewise take an oath to faithfully discharge the duties of his office.

(4) The term of such person so elected shall begin on January 15 next following his or her election, except in cases where for any cause whatsoever such election be not held on or before January 15 of the appropriate year, then such term shall begin ten (10) days following the date of such election.

(d) In all cases where the county superintendent of public instruction is now elected by popular vote, all candidates for such position must possess a certificate of qualification issued by the state board of education prior to their name being placed upon the ballot in such election; and the term of such official shall be for four (4) years from September next following the next election by popular vote of such person.

(e) Whenever a vacancy shall occur in the office of county superintendent of schools in counties having a population of more than two hundred fifty thousand (250,000), according to the United States census of 1970, or any subsequent United States census, and having a popularly elected county superintendent of schools, the county school board shall have authority to name some qualified person to fill such vacancy on a temporary basis until the next county general election, notwithstanding the provisions of any private act to the contrary.

(f) It shall be the duty of the board of education to assign to its superintendent the following duties:

(1) To act for the board in seeing that the laws relating to the schools, and rules of the state and the local board of education are faithfully executed;

(2) To attend all meetings of the board of education and to serve as a member of the executive committee of the board, without additional compensation;

(3) To keep in a well bound book, furnished by the board, a complete and accurate record of the proceedings of all meetings of the board and of his official acts;

(4) To keep in well bound books, furnished by the board and arranged according to the regulations prescribed by the commissioner of education, a detailed and accurate account of all receipts and disbursement of the public school funds;

(5) To issue, within ten (10) days, all warrants authorized by the board of education for expenditures for public school funds;

(6) To make such recommendations to the board of education as he deems for the best interest of the public schools, but in no case shall he have a vote on any question coming before the board;

(7) To have general supervision of all schools, and to visit the schools from time to time, and advise with the teachers and members of the board of education as to their condition and improvement;

(8) To require the use of the state course of study for all the public schools and the system of promoting pupils through the several grades thereof in accordance with regulations of the commissioner of education, as approved by the state board;

(9) To sign all certificates and diplomas of pupils who complete the courses of study prescribed for the elementary and high schools;

(10) To recommend to the board of education, supervisors, teachers, teacher aides, clerical assistants, and other employees in the schools;

(11) To recommend to the board salaries for teachers in accordance with the salary schedule and the salaries and wages of all other employees nominated by him;

(12) To assign teachers and teacher aides to the end that the best interests of the schools may be promoted thereby, pending the meeting and approval of the board of education;

(13) To require all teachers to submit to him for record their certificates, or authority to teach, given by the state board of education, and to keep a complete record of same;

(14) To file all contracts entered into with teachers and employees of the board of education, before they begin their services in the public schools;

(15) To furnish to teachers or principals the names of pupils belonging to their respective schools, the list to be taken from the census enumeration or other reliable records on file in his office;

(16) To issue certificates relative to the employment of minors who are enrolled as students in his district;

(17) To prepare reports of attendance to be assembled by the county superintendent, provided the county superintendent shall report to the commissioner of education any failure on the part of any principal or superintendent of any school system within the county to make such reports;

(18) To report to the county trustee and the commissioner of education, on or before the first day of July of each year, the attendance;

(19) To make a written report, quarterly, to the appropriate local legislative body, for the board of education, of all receipts and expenditures of the public school funds, which accounts shall contain full information concerning the conditions, progress, and needs of the schools of the school system and which shall be audited by the appropriate fiscal officer and local legislative body;

(20) To be present at all quarterly and annual settlements of the county trustee with the county executive covering all school funds arising from state apportionments, county levies, and all other sources, and report his acts to his board of education;

(21) To report to the local legislative body and the commissioner of education, whenever it shall appear to him that any portion of the school fund has been, or is in danger of being, misappropriated or in any way illegally disposed of or not collected;

(22) To make reports to the commissioner of education when requested by him;

(23) To prepare, annually, a budget for the schools in his school system, to submit the same to the board of education for its approval and to present it to the county or other appropriate local legislative body for adoption as provided for by charter or private legislative act.

(A) Such budget shall set forth in itemized form the amount necessary to operate the schools for the scholastic year beginning on the first day of July following, or on such date as provided for by charter or private legislative act.

(B) Any change in the expenditure of money as provided for by the budget shall first be ratified by the local board of education and the appropriate local legislative body;

(24) To give his full time and attention to the duties of his position;

(25) To deliver to his successor all records and official papers belonging to the position and in case of his refusal to deliver such records and files on demand of his successor, he shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than two hundred and fifty dollars ($250), and a like penalty for each month during which he shall persist in withholding the same;

(26) To file with the commissioner of education a copy of the budget adopted by the county or other appropriate local legislative body within ten (10) days after its adoption;

(27) To furnish to the commissioner of education a list of the teachers elected by the board of education and their respective salaries, on forms furnished by the commissioner;

(28) To grant any certificated employee, or any other person considered as a professional employee, access at any reasonable time to his/her personnel file or files, whether maintained by his/her principal, supervisor, superintendent, board of education, or any other official of the school system;

(29) To give any certificated and/or professional employee, on request and on payment of reasonable compensation, a copy of specified documents in his/her personnel file;

(30) To establish a procedure whereby an updated copy of the rules, regulations, and minimum standards of the state board of education shall be kept on file in an easily accessible place in each school library during normal school hours; and

(31) To perform such other official duties as may be prescribed by law.

(g) It shall be a misdemeanor in office for any superintendent to take any other contract under the board of education or to perform any other service for additional compensation, or for any county superintendent to act as principal or teacher in any school or to become the owner of a school warrant other than that allowed for his service as superintendent. Any violation of any provision of this section shall be punishable by a fine not less than fifty dollars ($50.00) nor more than two hundred and fifty dollars ($250) and dismissal from his position.

(h) It shall be a misdemeanor in office for any county superintendent to become the owner of a school warrant other than that allowed him as county superintendent for his salary; provided, that nothing in this title shall prevent any superintendent from receiving such compensation as the county board may allow for his services as secretary, and for any violation of this section, he shall be fined not less than fifty dollars ($50.00) nor more than two hundred and fifty dollars ($250), and dismissed from his position. [Acts 1925, ch. 115, § 6; Shan. Supp., §§ 1487a30-1487a34; mod. Code 1932, §§ 2320a, 2321, 2322-2324; Acts 1943, ch. 36, §§ 1, 2; mod. C. Supp. 1950, § 2320b; Acts 1961, ch. 59, § 1; 1961, ch. 182, § 1; 1963, ch. 13, § 1; modified; Acts 1969, ch. 57, §§ 1-3; 1974 (Adj. S.), ch. 424, § 1; 1974 (Adj. S.), ch. 654, §§ 27-30; 1975, ch. 56, § 2; 1977, ch. 196, §§ 3, 4; 1978 (Adj. S.), ch. 675, § 1; 1979, ch. 99, § 1; 1981, ch. 97, § 1; T.C.A. (orig. ed.), §§ 49-220 — 49-226; Acts 1984 (1st E.S.), ch. 6, § 11; 1984 (1st E.S.), ch. 7, § 80; 1987, ch. 308, § 15.]

**49-2-302. Abolition of superintendent's office — School administrators.** — (a)(1) The county legislative body of each county, except counties of this state having a population of more than six hundred thousand (600,000) according to the federal census of 1960 or any subsequent federal census is hereby authorized and empowered, by resolution duly entered upon its minutes, to take action calling for an election of the qualified voters of such county upon the question of abolishing the office of county superintendent of public instruction.

(2) The said resolution shall be published in a newspaper of general circulation throughout the county for two (2) consecutive weeks after its passage.

(b)(1) At any time in any county in which the county legislative body has failed to adopt a resolution as provided in subsection (a), such an election shall be called if the county executive is presented with a petition or petitions signed by a number of qualified voters of the county equaling not less than ten percent (10%) of the number of voters who voted in the county for governor in the next preceding general election for governor, such petition requesting that a referendum election be held in the county to determine whether the office of county superintendent of public instruction should be abolished pursuant to the provisions of this section.

(2) Provided, however, that the method provided in this subsection for calling such election is in addition to the method provided in subsection (a) and the county legislative body of each county referred to in subsection (a) shall continue to be empowered by resolution duly entered upon its minutes, to take action calling for such an election, as provided in subsection (a).

(c)(1) Within thirty (30) days after the adoption of a resolution by the county legislative body as provided in subsection (a), or within thirty (30) days after the filing of a petition or petitions as provided in subsection (b), the county executive of said county shall certify to the chairman of the commissioners of election that such an election has been called and it shall be the duty of the

commissioners of election in and for such county to order an election to be held within sixty (60) days of such notice.

(2) Said election is to be held in accordance with the law as provided for other general elections in the county.

(3) The ballots to be used in said election shall be provided and distributed by the county commissioners of election at the expense of the county and shall have placed upon the ballots the words, "For the Abolition of the Office of County Superintendent of Public Instruction," and the words, "Against the Abolition of the Office of County Superintendent of Public Instruction," and the voters shall prepare and cast their ballots by placing an "X" mark opposite the "For" or "Against" as they desire to vote.

(4) In event a county wide general election or special election is scheduled to be held within the period of the aforesaid notice, the election required by this section shall be held simultaneously with and as a part of said general election; otherwise a special election shall be called by the county commissioners of election.

(d)(1) If a majority of the qualified votes cast in said election in a county so holding an election favor the abolition of the office of county superintendent of public instruction, then the office of county superintendent of public instruction in and for such county shall cease to exist upon the expiration of the term of the incumbent superintendent, and thereupon, the executive supervision of the county school system shall be vested entirely in the county board of education, and the county board of education shall be charged with the responsibility of performing all duties and powers imposed by law upon the county superintendent of public instruction.

(2) The board of education of such county may at the expiration of the term of the incumbent superintendent employ a school administrator.

(3) Such school administrator shall be an employee of the board of education and such administrator and the respective board of education shall enter into a written contract prescribing his duties, compensation, length of employment and such other terms and conditions of employment as do not conflict with the general law, such contract to be entered into in the same manner in which such board of education would enter into a contract with a teacher or any other employee of the board of education.

(4) No such contract shall be of more than five (5) years in duration.

(5) However, no school administrator shall be employed by a county board of education unless the administrator has been duly certified by the state board of education as possessing the proper qualifications and it shall be the duty of the state board of education to make such certification as it may deem appropriate. [Acts 1963, ch. 353, §§ 1-4; 1965, ch. 314, § 1; 1970 (Adj. S.), ch. 568, § 1; 1975, ch. 149, § 1; T.C.A., §§ 49-234 — 49-237.]